

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James C. KENNEDY et al.

Title: PHOTOCHEMOTHERAPEUTIC METHOD USING 5-AMINOLEVULINIC ACID AND OTHER PRECURSORS THEREOF

Serial No. 09/293,835

Filing Date: April 19, 1999

Examiner: Dudash

Art Unit: 1754

RESPONSE TO RESTRICTION REQUIREMENT TRANSMITTALCommissioner for Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith is an **Response to Restriction Requirement**. No fee is required at this time.

- [ ] Small Entity status under 37 C.F.R. § 1.9 and § 1.27 has been established by a Small Entity statement previously submitted.
- [ ] Small Entity statement is enclosed.
- [ ] The fee required for additional claims is calculated below:

	Claims as Amended	Previously Paid For	Extra Claims Present	Rate	Additional Claims Fee
Total Claims:	34	34	0	x \$18.00	= \$0.00
Independents:	4	4	0	x \$78.00	= \$0.00
First presentation of any Multiple Dependent Claims:			+	\$260.00	= \$0.00
CLAIMS FEE TOTAL:					= \$0.00

- ☐ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

<input type="checkbox"/>	Extension for response filed within the first month:	\$110.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the second month:	\$380.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the third month:	\$870.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the fourth month:	\$1,360.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the fifth month:	\$1,850.00	\$0.00
EXTENSION FEE TOTAL:			\$0.00
CLAIMS AND EXTENSION FEE TOTAL:			\$0.00
<input type="checkbox"/>	Small Entity Fees Apply (subtract ½ of above):		\$0.00
TOTAL FEE:			\$0.00

- ☐ Please charge Deposit Account No. 19-0741 in the amount of \$ \_\_\_\_\_.  
duplicate copy of this transmittal is enclosed.
- ☐ A check in the amount of \$0.00 is enclosed.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Assistant Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 5 January 2008

By 

FOLEY & LARDNER  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, DC 20007-5109  
Telephone: 202-672-5300  
Facsimile: 202-672-5399

Thomas W. MacAllister  
Registration No. 42,822

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Attorney Docket No. 067286/0204

In re patent application of  
James C. KENNEDY *et al.*

Serial No.: 09/293,835

Filed: April 19, 1999

Group Art Unit: 1754

Examiner: Dudash

For: PHOTOCHEMOTHERAPEUTIC METHOD USING 5-AMINOLEVULINIC ACID  
AND OTHER PRECURSORS THEREOF

**Response to Restriction Requirement**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This submission responds to the Office Action that issued December 6, 2000. If Applicants have not accounted for any fees required by this response, the Commissioner is authorized to charge the missing fees to Deposit Account No. 19-0741. In the absence of an explicit request from Applicants, the PTO also is requested to grant any needed extension of time under 37 CFR 1.136, and to charge the corresponding fee to the aforementioned account.

Applicants representative discussed the outstanding restriction requirement with Examiner Dudash on December 14, 2000 in an effort to understand how to respond to it. In accord with Examiner Dudash's helpful suggestion, Applicants hereby elect with traverse lesions or abnormalities of the skin. All claims except 14, 23, 40 and 48 read on the elected subject matter. Examiner Dudash specifically indicated that this election would be considered responsive and that she would reconsider the previously issued requirement upon review of the case.


Applicants' traverse on the grounds that the restriction requirement is not understandable. It contends that the new claims (containing Markush language already

present in dependent claims existing in the case) "introduce many new conditions/disorders." Applicants are at a loss regarding how to respond to this contention because no specific disorders are recited by most of the claims. Hence, the requirement to pick a specific disorder is not understood. If the restriction requirement is maintained, clarification is requested so that a proper traverse may be made.

Applicants once again thank Examiner Dudash for her helpful assistance. It is respectfully requested that Applicants' response of 13 September 2000 be reconsidered and that it places the present case in condition for allowance. Should the Examiner have any questions or feel that a telephone conversation will advance prosecution of this case, the Examiner is invited to call the undersigned at the number listed below.

Respectfully submitted,

5 January 2001  
Date

  
Thomas W. MacAllister  
Reg. No. 42,822

FOLEY & LARDNER  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5109  
(202) 672-5300